IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRTEENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE Mr. JUSTICE B. SUDERSHAN REDDY

And

THE HON'BLE Mr. JUSTICE C.V. RAMULU

WRIT PETITION No.8286 of 2005

Between:

M/s. Vorion Chemicals & Distilleries Limited,

(now merged with Mohan Breweries & Distilleries Ltd),
Pallur, Chittoor District,

Rep by its Accounts Officer, Mr. Y. Srinivas

..... PETITIONER

AND

1) The Commercial Tax Officer-II, Chittoor.

2) The Appellate Deputy Commissioner (CT), Kurnool Division,

Kurnool.

3) State of Bank of India, Greamspet Branch, Chittoor,

Rep. by its Branch Manager

4) M/s. A.P. Beverages Corporation Limited,

4th Floor, Prohibition & Excise Complex,
9 & 10 Eastern M.J. Road, Hyderabad,

Rep. by its Managing Director

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus or any other appropriate Writ or Order or direction –

a. declaring the order of the Respondent, dated 14-03-2005, levying interest as passed in violation of principles of natural justice and contrary to the scheme framed by the Board of Industrial & Financial Reconstruction in its order, dated 25-08-1994, directing payment of the arrears both disputed and undisputed with interest at 6% only and consequently set aside the order, dated
14-3-2005, of the 1st Respondent;

(b) alternatively set aside the notices, dated
31-3-2005, issued by the 1st Respondent to the respondents 3 & 4 attaching the funds of the petitioner for recovery of the disputed interest during pendency of the appeal and stay application before the
2nd Respondent as contrary to the decision of the Hon'ble Court in the case of Anab-E-Shahi Wines & Distilleries Case (98 STC 386) read with circular of the Commissioner of Commercial Taxes, dated 11-03-1996, reported in (22 APSTJ Page 64 - Statutes).

Counsel for the Petitioner: Mr. P. SRINIVASA REDDY

Counsel for the Respondents 1 & 2: G.P. FOR COMMERCIAL TAX

Counsel for the Respondent No.4: Mr. G. Manohar

The Court made the following :

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ORDER: (Per Hon'ble Sri Justice B. Sudershan Reddy)

Heard the learned counsel for the petitioner and the learned Government Pleader for Commercial Taxes and at their request, the writ petition itself is taken up for final disposal at the stage of admission.

Rule Nisi.

This Writ Petition is directed against the proceedings of the Commercial Tax Officer, Chittoor, dated 14-03-2005, whereunder the authority determined the interest payable by the petitioner at Rs.2,88,45,287/-. There is no dispute that the petitioner aggrieved by the impugned order, dated 14-03-2005, preferred appeal before the 2nd respondent who is the first appellate authority to hear the appeal against the impugned order.

It is also stated about which there is no dispute that the petitioner filed an application seeking stay of further proceedings pursuant to the impugned notice, dated 14-03-2005, which is under consideration of the 2nd respondent.

The gravamen of the complaint in the instant writ petition is that even before disposal of the stay petition filed by the petitioner herein before the first appellate authority, the 1st respondent herein issued garnishee order, dated 31-03-2005, addressed to respondents 3 and 4 requiring them to pay the arrears. It is submitted that giving effect to the garnishee order would practically defeat the very purpose of the petitioner filing the appeal before the 1st respondent.

In the circumstances, the writ petition is disposed of directing the respondents herein not to give effect to the garnishee order, 31-03-2005, pending the stay petition filed by the petitioner herein which is under consideration of the 2nd respondent. The 2nd respondent shall dispose of the stay petition as well as the appeal preferred by the petitioner as expeditiously as possible. There shall be an order accordingly.

The Writ Petition is accordingly disposed of.

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B. SUDERSHAN REDDY, J

Date:13-04-2005.

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C.V. RAMULU, J

PV

To

1) The Commercial Tax Officer-II, Chittoor.

2) The Appellate Deputy Commissioner (CT), Kurnool Division,

Kurnool.

3) Branch Manager, State of Bank of India,

Greamspet Branch, Chittoor.

4) Two C.Cs. to G.P. for Commercial Taxes, High Court of A.P.,

Hyderabad (O.U.T.)

5) Two C.D. copies.